

Petition of Western Massachusetts Electric Company for approval of the issuance of long-term debt securities in an amount not to exceed \$52 million in principal, pursuant to G.L. c. 164, § 14 and § 17A and for an exemption from the competitive bidding requirements of G.L. c. 164, §§ 15 and 15A.

I. INTRODUCTION

II. STANDARD OF REVIEW

The Department may clarify previously issued orders when an order is silent as to the disposition of a specific issue requiring determination in the order or when the order contains language that is so ambiguous as to leave doubt as to its meaning. *Boston Edison Company*, D.P.U. 92-1A-B, p. 4 (1993). Clarification does not involve reexamining the record for the

purpose of substantively modifying a decision. *Boston Edison Company*, D.P.U. 90-35-A, p. 3 (1992), citing *Fitchburg Gas & Electric Light Company*, D.P.U. 18296/18297, p. 2 (1976).

The Department may grant reconsideration of previously decided issues based on the argument that the Department's treatment of an issue was the result of mistake or inadvertence. *Massachusetts Electric Company*, D.P.U. 90-261-B, p. 7 (1991). The Department also may grant reconsideration of previously decided issues when extraordinary circumstances dictate the Department take a fresh look at the record for the express purpose of substantively modifying a decision reached after review and deliberation. *North Attleboro Gas Company*, D.P.U. 94-130-B, p. 2 (1995); *Boston Edison Company*, D.P.U. 90-270-A, pp. 2-3 (1991). A motion for reconsideration should bring to light previously unknown or undisclosed facts that would have a significant impact upon the decision already rendered. It should not attempt to reargue an issue considered and decided in the main case. *Commonwealth Electric Company*, D.P.U. 92-3C-1A, pp. 3-6 (1995).

III. ARGUMENT

According to the Company, it plans to use \$51 million dollars received from the proposed financing to fund a trust, Co. Petition, p. 1., and invest the trust funds in United States Treasury securities. Tr. 1, p. 24. As a result of the financing and the trust fund investments, the Company's customers would be credited with the interest earned from those investments and the reduced cost of capital resulting from the higher long-term debt ratio caused by the financing, thus benefitting customers \$2.4 million per year. Exh. WM-2, pp. 5-7. At the same time, customers would lose the credit they currently receive through the Company's transition charge for the return on \$51 million they have already paid the Company for these purposes. At the Company's 11.85% overall weighted cost of capital, that is a loss to customers of \$6.0 million

(\$6.0 million = \$51 million x 11.85%). Thus, customers would lose a net amount of \$3.6 million per year (\$3.6 million = \$6.0 million - \$2.4 million), an amount that neither the Company, nor the Department, faulted.

The Attorney General argued in his brief that the Department of Energy is not likely to take the spent fuel from the site for 23 years, until after the year 2026, when Unit 3 of the Millstone Nuclear Generating Plant units is decommissioned, thus costing customers \$126 million during that period. AG Br., p. 5. The Department found that the Attorney General's calculations were erroneous simply because there was no basis for the assumption that the Department of Energy would wait until 2026 to start taking the spent nuclear fuel, rejecting the argument that the proposed use of the funds would cost customers \$126 million. Order, p. 16. After rejecting the Attorney General's argument that the financing would harm ratepayers, the Department approved the Company's proposed financing. *Id.* G.L. c. 164, § 17A, however, requires specific findings that there would be benefits arising from the financing (for any years of the prior to 2026). The Department's Order is silent and fails to make the required finding.

The Company's proposal to transfer the funds to a trust would cost ratepayers \$3.6 million each and every year until the Department of Energy took the funds. This fact is undisputed, by either the Company or the Department. The earliest date that the Department of Energy currently contemplates taking the fuel is in ten years, thus costing customers, at a minimum, \$36 million (\$36 million = \$3.6 million x 10 years). Tr. 1, pp. 16-17. The Department nevertheless approved the financing without explaining what benefit ratepayers might receive and whether that benefit was greater than the \$6.0 million customers currently receive, but that they will now lose each year. *Id.* The Department, therefore, should clarify, and specifically identify and quantify those benefits.

The Department, by inadvertence or mistake, may have simply overlooked the fact that the annual cost of the financing to customers is \$3.6 million each and every year until the Department of Energy takes the fuel. In this case, the Department should reconsider its decision and deny the Company's request to establish and fund the PSNF Trust.¹ *Massachusetts Electric Company*, D.P.U. 90-261-B, p. 7 (1991).

IV. CONCLUSION

For the reasons discussed above, the Department should clarify or, in the alternative, reconsider its decision.

RESPECTFULLY SUBMITTED,

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¹ The Department also rejected the Attorney General's argument that the Company failed to mitigate its transition costs as required under G.L. c. 164, §1G(2). Order, p. 16. The Department states that a financing under G.L. c. 164, §14, does not require such a review opining that the statute only requires the review of the mitigation of transition costs during the 18 month reviews of the financing orders associated with securitization of transition costs. Accordingly, the Attorney General will seek in the Company's next mitigation review, relief from the increased costs associated with the transfer of the funds to the trust as provided under G.L. c. 164, § 1G(2).